

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:07-00064

JIMMIE WADE LEMASTER, JR.

MEMORANDUM OPINION AND ORDER

By order entered on November 20, 2007, the court directed that the defendant pay his attorney's fees in the amount of \$7,166.80, all of which was found by the court to be reasonable based upon the attorney's fee statement submitted by defendant's counsel. At the sentencing hearing held on November 19, 2007, the court found that the defendant was financially able to pay his attorney's fees and that he had sufficient funds available to him with which to do so. Inasmuch as the defendant then had \$8,000.00 in his checking account, the court ordered that \$3,666.80 of the attorney's fees be paid "immediately." The remainder of \$3,500.00 in attorney's fees was directed to be paid on March 24, 2009, out of a lump sum payment of \$10,000.00 due him on that date from an annuity policy issued by Fidelity and Guaranty Life Insurance Company under which payments would be made to him from the structured wrongful death settlement he

received following the death of his sister in a car accident.

The defendant failed to pay the attorney's fees at any time.

The court also directed the defendant to pay a \$5,000.00 fine with full payment due on March 24, 2008, out of the annuity payment of \$10,000.00 to be received on that date. The defendant failed to pay the fine as directed. Pursuant to the Motion of the United States for an Order of Continuing Garnishment, the court entered an Order of Continuing Garnishment to Fidelity & Guaranty on March 31, 2009, which directed the payment of the fine of \$5,000.00 and interest thereon from the defendant's annuity to the United States to satisfy the fine. The fine payment of \$5,233.99 was made on April 13, 2009.


Inasmuch as the attorney's fees remain unpaid, the defendant remains financially able to pay them, and funds remain available to the defendant for payment thereof, it is ORDERED, pursuant to 18 U.S.C. 3006A(f), that the defendant make payment of his attorney's fees in the amount of \$7,166.80¹. The

¹Annuity payments to be made after March 24, 2008, are as follows: (1) \$10,000.00 guaranteed lump-sum payment on March 24, 2009; (2) \$550.00 initial benefit paid monthly, increasing 3% compounded annually, for life with 40 years guaranteed, commencing on March 24, 2009; (3) \$20,000 guaranteed lump-sum payment on March 24, 2010; (4) \$30,000 guaranteed lump-sum payment on March 24, 2013; (5) \$40,000.00 guaranteed lump-sum payment on March 24, 2018;

\$7,166.80 shall be paid with full payment due on March 24, 2013, out of the annuity payment of \$30,000.00 due the defendant on that date from Fidelity and Guaranty Life Insurance Company, to the Clerk, United States District Court, 300 Virginia Street, East, Room 2400, Charleston, West Virginia, 25301, for deposit into the CJA Fund, Defender Services appropriation.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: February 8, 2012


John T. Copenhaver, Jr.
United States District Judge

(6) \$50,000.00 guaranteed lump-sum payment on March 24, 2023; and (7) \$60,000.00 guaranteed lump-sum payment on March 24, 2028.